

REMARKS

I. Introduction.

Claims 27-40 remain pending in the above-identified application, with claims 27, 29, 32, 35 and 36 having been hereby amended, and claims 33, 34, and 37-40 having been hereby canceled. In view of the above amendments and the following remarks, reconsideration and allowance of the above-captioned application is respectfully requested. No new matter has been added.

II. Claim Rejections under 35 U.S.C. § 112, first and second paragraphs:

Claims 27-40 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner has stated that the claims contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The Examiner has pointed out a number of claim limitations in particular stating such limitation is new matter. Applicant has either rewritten the specific claims or canceled them and thus has corrected the particulars of the rejection.

Claims 38 and 39 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has canceled these claims.

Accordingly, these rejections should be withdrawn.

III. Objection to Specification under 35 U.S.C. § 132:

The specification stands objected to under 35 U.S.C. § 132 as having had new matter introduced into the disclosure of the invention. The Examiner specifically points out a particular phrase that was added by amendment and is requiring cancellation of the new matter. Applicant has so corrected the specification by submitting a Substitute Specification such that it is as it was originally filed.

Accordingly, Applicant respectfully requests the Examiner to withdraw the objection.

IV. Claim Rejections under 35 U.S.C. § 103:

The Examiner has rejected claims 27 through 40 under 35 U.S.C. § 103(a) as being unpatentable over the Tanel reference (U.S. Patent No. 5, 058,292) in view of the Kawashima reference (U.S. Patent No. 4, 590,693), the Ueda reference (U.S. Patent No. 5,943,795), and the Dassler reference (U.S. Patent No. 4,523,396).

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103, the prior art must teach or suggest each element of the claims and suggest combining the elements in a manner contemplated by the claim. See *Northern Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931, 934 (Fed. Cir.), *cert. denied* 111 S.Ct. 296 (1990).

As shown in the above amendments, each of the independent claims of the present invention as amended now recite as an additional limitation a metal insert positioned inside of the cleat and around the oblong shaped mounting hole. Support for the addition of the limitation is found on Page 4, lines 30-32, of the Specification, and as the element indicated as reference number 34 in Figure 7 of the instant application. As can be seen, the metal insert is positioned inside the base of the cleat and circumferentially around the oblong shaped mounting hole. In

such fashion the metal insert is capable of providing reinforcement where the fastener holds the cleat against the shoe sole.

Nowhere in the prior art cited is a metal insert as positioned in the present invention disclosed, taught or suggested. Rather, as Tanel shows a cleat comprising a plate 11 and a blade 13 attached thereto, the plate 11 does not have an interior. Accordingly, there is no metal insert which can be formed around aperture 29. Accordingly, neither the Kawashima, Ueda, nor Dassler references can correct this deficiency.

Furthermore neither the Kawashima, Ueda, nor Dassler references disclose, teach or suggest the metal insert inside the base of the cleat of the present invention.

Rather, Kawashima only shows support in the sole 1. That is, Kawashima shows a threaded fitting 4 fixedly embedded in the sole 1, and a rim 6 formed integrally with the sole to define square recesses at the bottom of the sole to prevent the spikes 8 from moving relative to the sole. Both the fitting 4 and the rim 6 are external to the spikes 8 and their bases 7. As such, neither element has anything to do with the interior of the cleat.

Also rather, Ueda shows a cleat assembly 12 that has no interior support for the cleat. As shown in Figure 7 of the Ueda reference, the cleat assembly 12 is constructed of a cleat attachment plate/member 50, a cleat 52, a pair of washers 54 and a pair of screws 56. As shown in Figures 14-17 of the Ueda reference, cleat 52 is a solid piece. Such is also true of the alternate cleat assembly 12' embodiment. As such, Ueda neither discloses, teaches or suggests any support in the interior of the cleat.

Also rather, Dassler shows a shaft 7 that is inserted into and then through a continuous borehole 8 in the sole 1. The base parts 5 of the cleats 6 have corresponding boreholes 8a, 8b which are aligned with the borehole 8. In this manner then Dassler shows that all of the cleats

are fastened in a row on the common shaft 7. This then is the fastening means and does not provide internal support for the cleat.

Furthermore, Dassler shows that the base part 5 of the cleat 6 is fastened in the opening 4 of the holding means 3 by a form fit within an inserted piece 17. Such form fitting is enhanced by the frictional interaction of edges 23, 24 of a groove 18 cut in the base part 5 of the cleat 6 with the inside wall of the inserted piece 17. Thus, as is clear from both the description and the Figures, the inserted piece 17 is not internal to the cleat 6.

Also furthermore, Dassler shows a holding means 3 formed as part of the sole 1 that has a wedge-shaped recess 39 filled with elastic compressible material 40. A recess 41, through which the base part 5 extends, is provided in the compressible material 40. The cleat 6 has a supporting part 37 which sits on and thus contacts the outer surface of the holding means 3, while a joint 42 and end piece 43 operate to hold the base part 5 of the cleat 6 in position in the interior of the holding means 3. Thus, as is again clear from both the description and the Figures, none of these elements is internal to the cleat 6.

As such, none of the elements shown by Dassler, taken individually or in combination, discloses, teaches or suggests any support in the interior of the cleat as taught and claimed by the application of the present invention.

Additionally, neither does the Rogers reference (U.S. Patent No. 1,055,229) previously cited against the present invention disclose, teach or suggest the metal insert of the present invention. Rather, as the Rogers reference teaches a spike plate, it has no cleat interior. Neither the rotating stud 6 or turnbutton 9 are positioned inside of the spikes.

None of the prior art reference cited, either separately or in combination disclose, teach or suggest the metal insert positioned inside the base of the cleat of the present invention.

Based on the above, applicants believe that each of the independent claims is patentable under the cited prior art. Further, applicant respectfully submits that each of the dependent claims are now believed to define patentable subject matter in view of their dependency upon the independent claims.

Accordingly, it is respectfully submitted that the Examiner's rejections of claims 27-40 should be withdrawn.

V. Conclusion:

In light of the above amendments and remarks, it is respectfully submitted that the remaining pending claims are allowable. All issues raised by the Examiner have been addressed, and therefore an early and favorable action on the merits is earnestly solicited.

The Examiner is urged to telephone Applicant's undersigned counsel at the number noted below if it will advance the prosecution of this application, or with any suggestion to resolve any condition that would impeded allowance.

The Commissioner is hereby authorized to apply the two-month extension fee of \$225.00 in connection with this Response to Deposit Account No. 50-1943 Reference No. 81699-15001. The Commissioner is hereby authorized to charge any additional fee which may be required, or credit any overpayment, in connection with this Response to Deposit Account No. 50-1943 Reference No. 81699-15001. In the event that any further extension of time is required under 37 C.F.R. § 1.136(a), Applicant hereby petitions for such extension of time required to make this response timely.

Respectfully submitted,

Fox Rothschild, LLP
Attorneys for Applicant

100 Park Avenue
New York, NY 10017
(212) 878-7900

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By: 

John J. Skinner, Jr.
Reg. No. 42,153